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FOIA

F05-139/01

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1	MEMO	ROBERTS TO FIELDING THRU HAUSER RE DIEGO ASENCIO	1	9/15/1983	B6	579
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Freedom of Information Act - [5 U.S.C. 552(b)]

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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THE WHITE HOUSE

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APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

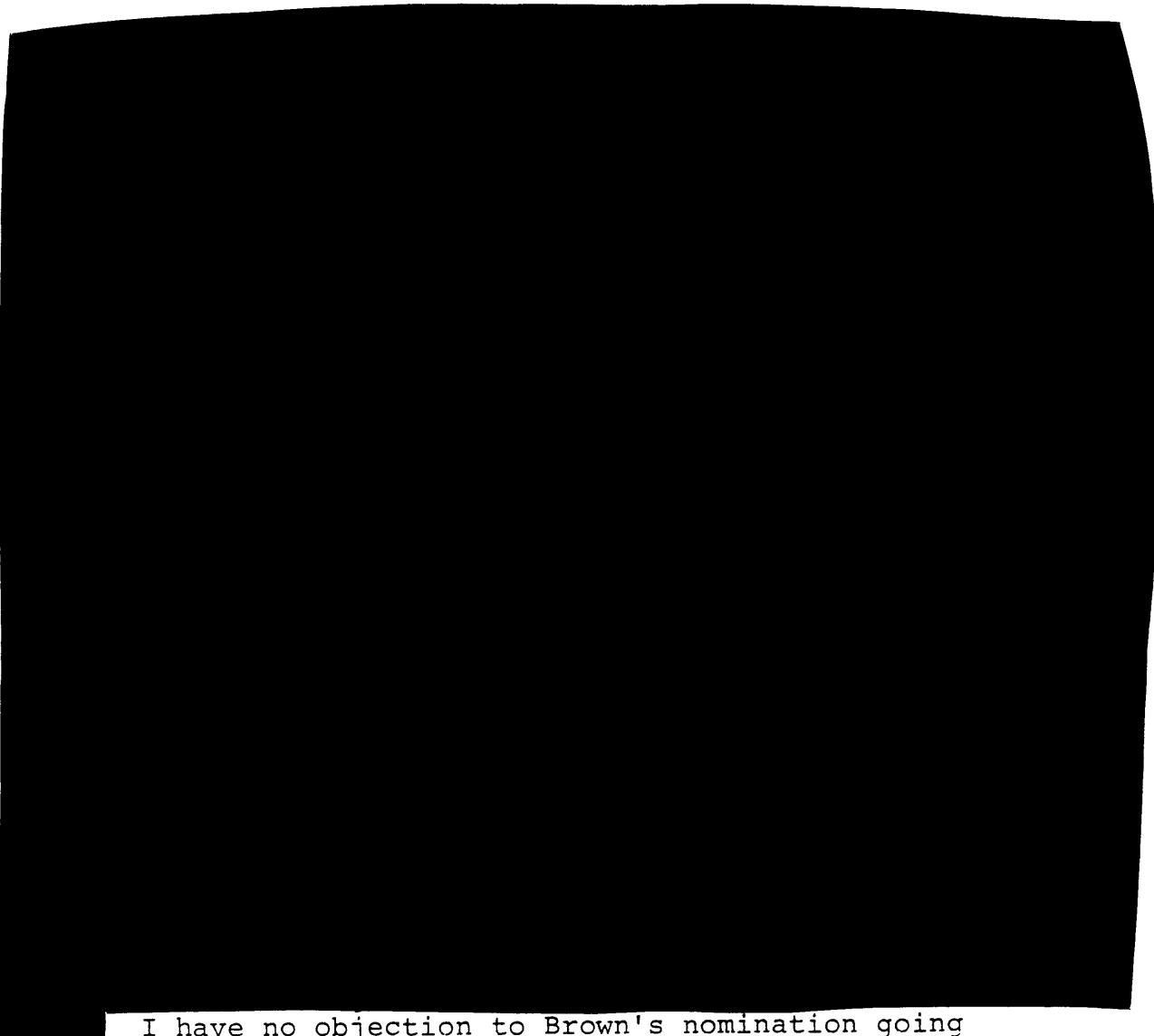
Several meetings in late June;
DATE OF INTERVIEW: Numerous telephone conversations thereafter
CANDIDATE: Clarence J. Brown
POSITION: Deputy Secretary of Commerce
INTERVIEWER: John G. Roberts

COMMENTS:

The President has announced his intention to nominate Clarence J. Brown to be the Deputy Secretary of Commerce. The Office of Deputy Secretary of Commerce was established by § 2(b)(1) of Reorganization Plan No. 3 of 1979, 5 U.S.C. App. II, see Executive Order 12175 (December 7, 1979). That Reorganization Plan, like all others, contained an unconstitutional legislative veto provision, see 5 U.S.C. § 906. It can be argued that the authority to create the Office of Deputy Secretary of Commerce was not severable from the unconstitutional legislative veto, and that accordingly there was no power to create the office. The government-wide ramifications of acceptance of such an argument are, of course, staggering, but I must report that the Federal District Court in Mississippi has in fact accepted such an argument in the context of a suit challenging the authority of the Equal Employment Opportunity Commission, which was established through a Reorganization Plan. I recommend that we proceed on the assumption that the Office of Deputy Secretary of Commerce does exist, but I wanted to alert you to the possible legislative veto problems.

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I have no objection to Brown's nomination going forward.

Attachments